

HOUSE BILL No. 1090

DIGEST OF INTRODUCED BILL

Citations Affected: IC 10-13-3-27; IC 24-4-20.

Synopsis: Background checks for drivers for hire. Requires a transportation network company, a taxicab company, or a taxicab service (company) to request and receive a limited criminal history and a certified copy of the driving record of a driver or taxicab driver (driver) before a driver begins employment or association with the company. Makes it a Class A infraction for a company to allow a driver to operate a motor vehicle or taxicab if the driver has been convicted of: (1) a felony or a misdemeanor; or (2) a moving violation that has a direct bearing on the driver's ability to operate a motor vehicle safely. Makes it a Class A infraction for a driver to operate a motor vehicle or taxicab if the driver has been convicted of: (1) a felony or a misdemeanor; or (2) a moving violation that has a direct bearing on the driver's ability to operate a motor vehicle safely.

Effective: July 1, 2015.

Hale

January 6, 2015, read first time and referred to Committee on Employment, Labor and Pensions.



First Regular Session of the 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

HOUSE BILL No. 1090

A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 10-13-3-27, AS AMENDED BY P.L.214-2013,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2015]: Sec. 27. (a) Except as provided in subsection (b), on
4 request, a law enforcement agency shall release a limited criminal
5 history to or allow inspection of a limited criminal history by
6 noncriminal justice organizations or individuals only if the subject of
7 the request:
8 (1) has applied for employment with a noncriminal justice
9 organization or individual;
10 (2) has:
11 (A) applied for a license or is maintaining a license; and
12 (B) provided criminal history data as required by law to be
13 provided in connection with the license;
14 (3) is a candidate for public office or a public official;
15 (4) is in the process of being apprehended by a law enforcement



- 1 agency;
- 2 (5) is placed under arrest for the alleged commission of a crime;
- 3 (6) has charged that the subject's rights have been abused
- 4 repeatedly by criminal justice agencies;
- 5 (7) is the subject of a judicial decision or determination with
- 6 respect to the setting of bond, plea bargaining, sentencing, or
- 7 probation;
- 8 (8) has volunteered services that involve contact with, care of, or
- 9 supervision over a child who is being placed, matched, or
- 10 monitored by a social services agency or a nonprofit corporation;
- 11 (9) is currently residing in a location designated by the
- 12 department of child services (established by IC 31-25-1-1) or by
- 13 a juvenile court as the out-of-home placement for a child at the
- 14 time the child will reside in the location;
- 15 (10) has volunteered services at a public school (as defined in
- 16 IC 20-18-2-15) or nonpublic school (as defined in IC 20-18-2-12)
- 17 that involve contact with, care of, or supervision over a student
- 18 enrolled in the school;
- 19 (11) is being investigated for welfare fraud by an investigator of
- 20 the division of family resources or a county office of the division
- 21 of family resources;
- 22 (12) is being sought by the parent locator service of the child
- 23 support bureau of the department of child services;
- 24 (13) is or was required to register as a sex or violent offender
- 25 under IC 11-8-8;
- 26 (14) has been convicted of any of the following:
- 27 (A) Rape (IC 35-42-4-1), if the victim is less than eighteen
- 28 (18) years of age.
- 29 (B) Criminal deviate conduct (IC 35-42-4-2) (repealed), if the
- 30 victim is less than eighteen (18) years of age.
- 31 (C) Child molesting (IC 35-42-4-3).
- 32 (D) Child exploitation (IC 35-42-4-4(b)).
- 33 (E) Possession of child pornography (IC 35-42-4-4(c)).
- 34 (F) Vicarious sexual gratification (IC 35-42-4-5).
- 35 (G) Child solicitation (IC 35-42-4-6).
- 36 (H) Child seduction (IC 35-42-4-7).
- 37 (I) Sexual misconduct with a minor as a felony (IC 35-42-4-9).
- 38 (J) Incest (IC 35-46-1-3), if the victim is less than eighteen
- 39 (18) years of age.
- 40 (K) Attempt under IC 35-41-5-1 to commit an offense listed in
- 41 clauses (A) through (J).
- 42 (L) Conspiracy under IC 35-41-5-2 to commit an offense listed



in clauses (A) through (J).

(M) An offense in any other jurisdiction in which the elements of the offense for which the conviction was entered are substantially similar to the elements of an offense described under clauses (A) through (J);

(15) is identified as a possible perpetrator of child abuse or neglect in an assessment conducted by the department of child services under IC 31-33-8; ~~or~~

(16) is:

(A) a parent, guardian, or custodian of a child; or

(B) an individual who is at least eighteen (18) years of age and resides in the home of the parent, guardian, or custodian;

with whom the department of child services or a county probation department has a case plan, dispositional decree, or permanency plan approved under IC 31-34 or IC 31-37 that provides for reunification following an out-of-home placement; ~~or~~

(17) is or will be a driver (as defined in IC 24-4-20-3) or a taxicab driver.

However, limited criminal history information obtained from the National Crime Information Center may not be released under this section except to the extent permitted by the Attorney General of the United States.

(b) A law enforcement agency shall allow inspection of a limited criminal history by and release a limited criminal history to the following noncriminal justice organizations:

(1) Federally chartered or insured banking institutions.

(2) Officials of state and local government for any of the following purposes:

(A) Employment with a state or local governmental entity.

(B) Licensing.

(3) Segments of the securities industry identified under 15 U.S.C. 78q(f)(2).

(c) Any person who knowingly or intentionally uses limited criminal history for any purpose not specified under this section commits a Class A misdemeanor.

SECTION 2. IC 24-4-20 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:

Chapter 20. Transportation Network Companies and Taxicabs

Sec. 1. As used in this chapter, "company" means a transportation network company, a taxicab company, or a taxicab service.



1 Sec. 2. As used in this chapter, "criminal history data" has the
2 meaning set forth in IC 10-13-3-5.

3 Sec. 3. As used in this chapter, "driver" means an individual
4 who operates a vehicle that is:

- 5 (1) owned, leased, or otherwise authorized for use by the
- 6 individual;
- 7 (2) not a taxicab; and
- 8 (3) used to provide services for a transportation network
- 9 company.

10 Sec. 4. As used in this chapter, "driving record" has the
11 meaning set forth in IC 9-13-2-48.5(1).

12 Sec. 5. As used in this chapter, "limited criminal history" has
13 the meaning forth in IC 10-13-3-11.

14 Sec. 6. As used in this chapter, "municipality" means a city or
15 a town.

16 Sec. 7. As used in this chapter, "taxicab" means a motor vehicle
17 that:

- 18 (1) is designed and constructed to accommodate and transport
- 19 not more than six (6) passengers in addition to the driver;
- 20 (2) does not operate over any definite and designated routes
- 21 within the corporate boundaries of a municipality and the
- 22 suburban territory of a municipality; and
- 23 (3) transports passengers to the destination designated by the
- 24 passengers at the time of their transportation.

25 Sec. 8. As used in this chapter, "transportation network
26 company" means a business enterprise that uses a digital or
27 software application service to connect potential passengers to
28 transportation network company services provided by drivers. A
29 transportation network company does not own, control, operate,
30 or manage the vehicles used by the drivers and is not a taxicab
31 company or taxicab service.

32 Sec. 9. As used in this chapter, "vehicle" means a private
33 passenger motor vehicle primarily designed for transporting
34 passengers. The term includes passenger vans and minivans that
35 are primarily designed for transporting passengers.

36 Sec. 10. This chapter may not be construed as to limit the use of
37 fingerprints for the purpose of identification of taxicab drivers, as
38 set forth in IC 10-13-3-37.

39 Sec. 11. (a) A company shall request a limited criminal history
40 and a certified copy of the driving record of a driver or taxicab
41 driver before a driver or a taxicab driver begins employment or
42 association with the company.



1 (b) A company may not allow a driver or a taxicab driver to
 2 operate a vehicle or taxicab as an employee or an individual
 3 contracting with the company before the requested limited
 4 criminal history or certified copy of the driving record, or both,
 5 has been received by the company.

6 (c) A company must request a limited criminal history and
 7 certified copy of the driving record before July 15, 2015, for an
 8 employee or individual contracting with the company or taxicab
 9 service before July 1, 2015. A driver or a taxicab driver may not
 10 operate a vehicle or taxicab with the company after August 15,
 11 2015, if the limited criminal history or the certified copy of the
 12 driving record, or both, has not been received by the company.
 13 This subsection expires December 31, 2016.

14 Sec. 12. A company may not allow a driver or a taxicab driver
 15 to operate a vehicle or taxicab as an employee or an individual
 16 contracting with the company if the criminal history data from the
 17 limited criminal history shows that the individual who is the
 18 subject of the limited criminal history has been convicted of:

- 19 (1) a felony or a misdemeanor; or
- 20 (2) a moving violation that has a direct bearing on the
- 21 applicant's ability to operate a motor vehicle safely.

22 Sec. 13. A driver or a taxicab driver may not operate a vehicle
 23 or taxicab as an employee or an individual contracting with the
 24 company if the driver or the taxicab driver has been convicted of:

- 25 (1) a felony or a misdemeanor; or
- 26 (2) a moving violation that has a direct bearing on the
- 27 applicant's ability to operate a motor vehicle safely.

28 Sec. 14. A driver or a taxicab driver must report to the company
 29 with which the driver or taxicab driver is employed or has a
 30 contractual relationship immediately after:

- 31 (1) an arrest for a felony or a misdemeanor; or
- 32 (2) a citation for a moving violation that has a direct bearing
- 33 on the applicant's ability to operate a motor vehicle safely.

34 Sec. 15. (a) A company that allows a driver or a taxicab driver
 35 to operate a vehicle or taxicab as an employee or an individual
 36 contracting with the company without having received a limited
 37 criminal history or a certified copy of the driving record, as
 38 required by section 11(b) and 11(c) of this chapter, commits a Class
 39 A infraction.

40 (b) A company that allows a driver or a taxicab driver to
 41 operate a vehicle or taxicab as an employee or an individual
 42 contracting with the company in violation of section 12 of this



1 **chapter commits a Class A infraction.**

2 **(c) A driver or a taxicab driver who violates section 13 or 14 of**
3 **this chapter commits a Class A infraction.**

4 **(d) Notwithstanding IC 34-28-5-4(a), a judgment of ten**
5 **thousand dollars (\$10,000) shall be imposed for each Class A**
6 **infraction committed as set forth in subsections (a), (b), and (c).**

